

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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ANGEL FRALEY; PAUL WANG, et )  
al., )  
Plaintiffs, )  
vs. ) No. CV-11-01726LHK  
FACEBOOK, INC., a )  
corporation; and Does 1-100, )  
Defendants. )  
\_\_\_\_\_)

VIDEOTAPED DEPOSITION OF SUSAN MAINZER  
TUESDAY, DECEMBER 20, 2011

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1 with my lawyer, so I think that I -- can I pass? 10:06:45AM

2 Should I pass? How does that work?

3 BY MR. BROWN:

4 Q Let me just try to ask it in a different

5 way. What I'm definitely not asking you to do is to 10:06:54AM

6 convey, either directly or indirectly,

7 communications you have had with your lawyers.

8 But putting aside legal theories for a

9 minute, what's your understanding of the factual

10 basis for the complaint? 10:07:11AM

11 A That Facebook uses my name and likeness in

12 advertising without my knowledge or permission.

13 Q And you understand that as a named

14 Plaintiff in a class action case like this one, that

15 you're essentially representing a class or a group 10:07:35AM

16 of people, correct?

17 A Yes.

18 Q And what is your understanding of the

19 scope of that group that you're representing?

20 A Well, my understanding is that it would be 10:07:49AM

21 everyone who has had their likeness or name used in

22 a sponsored story. And I'm not sure --

23 MR. ARNS: You answered it.

24 THE WITNESS: Yeah. I'm -- I'm not -- I'm

25 not sure if that -- if that's everyone in America or 10:08:06AM

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1 Q Have you ever heard of Civil Code -- 10:11:14AM  
2 California Civil Code Section 3344?

3 MR. ARNS: Excuse me. Let me just say  
4 this: Object; invades the attorney/client  
5 privilege. The briefings that she has received 10:11:23AM  
6 about the theories of liability have all been from  
7 her lawyers and so all of this, as far as her  
8 understanding of these areas, come from that. So  
9 object; invades the attorney/client privilege.

10 She may not remember the definitions or 10:11:46AM  
11 the numbers, but obviously, there have been long  
12 discussions about this with her and --

13 THE WITNESS: Yeah, I definitely don't  
14 know the names or the numbers.

15 BY MR. BROWN: 10:12:01AM

16 Q So let me see if I have any more questions  
17 along these lines. You should pause if you want and  
18 give your counsel time to object.

19 Are you aware that one of the causes of  
20 action alleged in the complaint has a fee-shifting 10:12:14AM  
21 provision for the prevailing party in the case?

22 MR. ARNS: Excuse me. I doubt she knows  
23 what a cause of action is, to start with.

24 Do you know what the term "cause of  
25 action" means? 10:12:29AM

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1 THE WITNESS: (Shakes head.) Not in a 10:12:30AM  
2 legal context.

3 MR. ARNS: So have you heard of any of  
4 this information other than from your lawyers?

5 THE WITNESS: No. 10:12:37AM

6 MR. ARNS: Okay. Object; attorney/client  
7 privilege.

8 BY MR. BROWN:

9 Q So let me see if I can clarify that. And  
10 again, just wait in case your lawyer wants to 10:12:45AM  
11 interpose an objection.

12 So I think it's possible that last  
13 question was a little bit cryptic, so are you aware  
14 that one of the laws that's being alleged in this  
15 case provides that whoever is the prevailing party 10:13:00AM  
16 in the case is entitled to get an award of the  
17 attorneys' fees of the other party in the case?

18 MR. ARNS: Object; invades the  
19 attorney/client privilege.

20 MR. BROWN: And are you instructing her 10:13:23AM  
21 not to answer?

22 MR. ARNS: She can answer it if she knows  
23 anything about that that wasn't involved with  
24 discussions of attorney/client -- within the  
25 attorney/client privilege context. 10:13:34AM

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1 THE WITNESS: Yeah, so I have nothing to 10:13:36AM  
2 say then.

3 BY MR. BROWN:

4 Q Do you know what a Facebook friend is?

5 A I do. 10:13:45AM

6 Q I figured as much.

7 Just in your own words --

8 I mean, I think we all understand what it  
9 is, but in your own words, how would you  
10 characterize a Facebook friend? 10:13:57AM

11 A A Facebook friend is a contact in real  
12 life who I have become linked with on Facebook.

13 Q Some of these questions and answers are  
14 just going to be kind of laborious, so just have to  
15 kind of bear with me. 10:14:14AM

16 Why do you use Facebook?

17 A I love Facebook. Well, I use it to  
18 communicate with friends and business associates and  
19 people I know and I use it for inviting people to  
20 events, some private events, some public events. 10:14:37AM

21 I love that little IM. Let's see.

22 Q Meaning instant messaging?

23 A Yeah.

24 I've done a little location checking in,  
25 not that much. Yeah, I -- I think it's an -- I 10:14:56AM

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1 STATE OF CALIFORNIA )  
 ) :ss

2 COUNTY OF SAN FRANCISCO )  
3

4 I, KELLI COMBS, CSR NO. 7705, a Certified Shorthand  
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken before me  
7 at the time and place herein set forth; that any  
8 witnesses in the foregoing proceedings, prior to  
9 testifying, were placed under oath; that the verbatim  
10 record of the proceedings was made by me using machine  
11 shorthand which was thereafter transcribed under my  
12 direction; further, that the foregoing is an accurate  
13 transcription thereof.

14 I further certify that I am neither financially  
15 interested in the action nor a relative or employee of  
16 any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date subscribed my  
18 name.

19  
20 Dated: January 9, 2012  
21

22  
23 \_\_\_\_\_  
24 KELLI COMBS, CSR NO. 7705  
25